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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

PAGAN, JENINE MARIE

ART UNIT	PAPER NUMBER
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3728

MAIL DATE	DELIVERY MODE
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10/31/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/582,583	Applicant(s) BOBBETT ET AL.	
	Examiner JENINE M. PAGAN	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action acknowledges the applicant's amendment filed 7/30/2008.

Claims 1-22 are pending in the application.

2. It is noted that the claims as presented are directed to a product and method of using the product. As currently presented, the method is the mere assembly of the product and its examination in conjunction with the product does not represent a serious burden at this time; therefore, no restriction is required. However, if subsequent amendments to the claims result in diverging subject matter and searches between the claimed inventions, the examiner reserves the right to restrict at that time.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmiletzky (US 5,360,116).

Claim 1: Schmiletzky disclose:

- a medicament retaining sheet 4 for a medicament blister pack, said medicament retaining sheet 4 comprising a first sheet (Col 3:64-68 base section) having first and second faces and a second sheet (Col 4:1-4 barrier layer) having first and second faces, wherein the first face of the second sheet and the second face of the first sheet are opposed and bonded together

and wherein the first sheet includes lines of weakness defining a plurality of medicament release zones

Claim 2: Schmiletzky disclose:

- the lines of weakness (A) defining medicament release zones (e) comprise a plurality of perforations and/or slits

Claim 3: Schmiletzky disclose:

- the lines of weakness are formed in the first face of the first sheet (Col 10:20-23)

Claim 4: Schmiletzky disclose (Col 8:45-58):

- the lines of weakness (A) extend from the first face of the first sheet (Col 3:64-68), through the first sheet and to the second face of said first sheet in at least a portion of each individual medicament release zone (e)

Claim 5: Schmiletzky disclose:

- medicament retaining sheet 4 comprises a laminate (Col 5:8-13)

Claim 6: Schmiletzky disclose (Col 6:60-63):

- at least portions of the second face of the second sheet (Col 4:1-4) are provided with a permanent adhesive

Claim 7: Schmiletzky disclose (Col 6:60-63):

- the second face of the second sheet is fully coated with a permanent adhesive

Claim 8: Schmiletzky disclose (Col 6:60-63):

- the second face of the second sheet (Col 4:1-4) is provided with no permanent adhesive in the medicament release zones (e)

Claim 10: Schmiletzky disclose:

- the first sheet (Col 3:64-68) is formed from a paper material

Claim 11: Schmiletzky disclose (Col 6:32-35):

- the medicament retaining sheet 4 is for use in the manufacture of a medicament blister pack

Claim 12: Schmiletzky disclose:

- manufacturing a medicament blister pack providing medicament retaining sheet 4

Claim 13: Schmiletzky disclose:

- medicament blister pack comprising a medicament retaining sheet 4

Claim 14: Schmiletzky disclose:

- the medicament tray 3 comprises a molded plastics tray including a plurality of medicament cavities 2

5. Claims 15-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmiletzky (US 5,360,116).

Claim 15: Schmiletzky disclose:

- a medicament tray 3 having a plurality of molded cavities 2 or recesses each containing a medicament in the form of a tablet 6, said tablets 6 being held in place by means of a retaining sheet 4, wherein said label (Col 7:42-43 outermost layer) has first and second faces, said first face having an adhesive

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applied thereto and wherein said label (Col 7:42-43 outermost layer) includes lines of weakness (A) defining a plurality of medicament release zones 3

Claim 16: Schmiletzky disclose (Fig 1):

- the lines of weakness (A) defining medicament release zones (e) comprise a plurality of perforations and/or slits

Claim 17: Schmiletzky disclose (Fig 1 and Col 7:32-43):

- the lines of weakness (A) extend from the upper surface, through the label (Col 7:42-43 outermost layer), to the lower surface of said label in at least a portion of each individual medicament release zone (e)

Claim 18: Schmiletzky disclose (Fig 1):

- the lines of weakness (A) are formed in the second face of the label (Col 7:42-43 outermost layer)

In the instance of 3 layers the outermost layer is considered to be the label.

Claim 19: Schmiletzky disclose:

- at least portions of the second face of the second sheet (Col 4:1-4) are provided with a permanent adhesive (Col 6:4-9)

Claim 20: Schmiletzky disclose (Col 6:60-63):

- no adhesive is applied to the first face in the medicament release zones (e)

Claim 21: Schmiletzky disclose (Col 6:60-63):

- the first face is fully coated with a permanent adhesive

Claim 22: Schmiletzky disclose (Col 7:42-43 outermost layer):

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- the label (Col 3:64-68, Col 7:42-43 outermost layer) is formed from a paper material

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmiletzky (US 5,360,116).

Claim 9: Schmiletzky discloses the claimed invention as stated above in claim 1 except:

- the second sheet is formed from a metal foil or a metallized plastics material

However Schmiletzky states in Col 1:28-31 that it is known in the art to substitute ceramic for metal to be used in the blister pack for easy recycling, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Response to Arguments

8. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENINE M. PAGAN whose telephone number is (571)270-3216. The examiner can normally be reached on Monday - Thursday, 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Gregory Pickett/
Primary Examiner, Art Unit 3728

/Jenine M Pagan/
Examiner, Art Unit 3728

/J. M. P. /
Examiner, Art Unit 3728